

AMENDED IN ASSEMBLY JANUARY 27, 2014

AMENDED IN ASSEMBLY JANUARY 6, 2014

CALIFORNIA LEGISLATURE—2013–14 REGULAR SESSION

ASSEMBLY BILL

No. 194

Introduced by Assembly Member Campos

January 28, 2013

An act to amend Section 54960.1 of the Government Code, relating to local government.

LEGISLATIVE COUNSEL'S DIGEST

AB 194, as amended, Campos. Open meetings: actions for violations.

The Ralph M. Brown Act requires, with specified exceptions, that all meetings of a legislative body of a local agency, as those terms are defined, be open and public and that all persons be permitted to attend and participate. The act requires every agenda for a regular meeting or notice for a special meeting to provide an opportunity for members of the public to address the legislative body on items being considered by the legislative body, as specified. The act authorizes a district attorney or any interested party to seek a judicial determination that an action taken by a legislative body is null and void if the legislative body violated certain provisions of the act.

This bill would expand the authorization for a district attorney or interested party to seek a judicial determination that an action taken by a legislative body is null and void if the legislative body violated the requirement that every agenda for a regular meeting or notice for a special meeting provide an opportunity for members of the public to address the legislative body on items being considered, as specified.

Vote: majority. Appropriation: no. Fiscal committee: no.
State-mandated local program: no.

The people of the State of California do enact as follows:

1 SECTION 1. Section 54960.1 of the Government Code is
2 amended to read:
3 54960.1. (a) The district attorney or any interested person may
4 commence an action by mandamus or injunction for the purpose
5 of obtaining a judicial determination that an action taken by a
6 legislative body of a local agency in violation of Section 54953,
7 54954.2, 54954.3, 54954.5, 54954.6, 54956, or 54956.5 is null
8 and void under this section. Nothing in this chapter shall be
9 construed to prevent a legislative body from curing or correcting
10 an action challenged pursuant to this section.
11 (b) Prior to any action being commenced pursuant to subdivision
12 (a), the district attorney or interested person shall make a demand
13 of the legislative body to cure or correct the action alleged to have
14 been taken in violation of Section 54953, 54954.2, 54954.3,
15 54954.5, 54954.6, 54956, or 54956.5. The demand shall be in
16 writing and clearly describe the challenged action of the legislative
17 body and nature of the alleged violation.
18 (c) (1) The written demand shall be made within 90 days from
19 the date the action was taken unless the action was taken in an
20 open session but in violation of Section 54954.2, in which case
21 the written demand shall be made within 30 days from the date
22 the action was taken.
23 (2) Within 30 days of receipt of the demand, the legislative body
24 shall cure or correct the challenged action and inform the
25 demanding party in writing of its actions to cure or correct or
26 inform the demanding party in writing of its decision not to cure
27 or correct the challenged action.
28 (3) If the legislative body takes no action within the 30-day
29 period, the inaction shall be deemed a decision not to cure or
30 correct the challenged action, and the 15-day period to commence
31 the action described in subdivision (a) shall commence to run the
32 day after the 30-day period to cure or correct expires.
33 (4) Within 15 days of receipt of the written notice of the
34 legislative body's decision to cure or correct, or not to cure or
35 correct, or within 15 days of the expiration of the 30-day period

1 to cure or correct, whichever is earlier, the demanding party shall
2 be required to commence the action pursuant to subdivision (a) or
3 thereafter be barred from commencing the action.

4 (d) (1) An action taken that is alleged to have been taken in
5 violation of Section 54953, 54954.2, 54954.3, 54954.5, 54954.6,
6 54956, or 54956.5 shall not be determined to be null and void if
7 any of the following conditions exist:

8 ~~(1)~~

9 (A) The action taken was in substantial compliance with Sections
10 54953, 54954.2, 54954.3, 54954.5, 54954.6, 54956, and 54956.5.

11 ~~(2)~~

12 (B) The action taken was in connection with the sale or issuance
13 of notes, bonds, or other evidences of indebtedness or any contract,
14 instrument, or agreement thereto.

15 ~~(3)~~

16 (C) The action taken gave rise to a contractual obligation,
17 including a contract let by competitive bid other than compensation
18 for services in the form of salary or fees for professional services,
19 upon which a party has, in good faith and without notice of a
20 challenge to the validity of the action, detrimentally relied.

21 ~~(4)~~

22 (D) The action taken was in connection with the collection of
23 any tax.

24 ~~(5)~~

25 (E) Any person, city, city and county, county, district, or any
26 agency or subdivision of the state alleging noncompliance with
27 subdivision (a) of Section 54954.2, Section 54956, or Section
28 54956.5, because of any defect, error, irregularity, or omission in
29 the notice given pursuant to those provisions, had actual notice of
30 the item of business at least 72 hours prior to the meeting at which
31 the action was taken, if the meeting was noticed pursuant to Section
32 54954.2, or 24 hours prior to the meeting at which the action was
33 taken if the meeting was noticed pursuant to Section 54956, or
34 prior to the meeting at which the action was taken if the meeting
35 is held pursuant to Section 54956.5.

36 (2) *With regard to an action that is alleged to have been taken*
37 *in violation of Section 54954.3, this section shall not apply to any*
38 *agenda item except the agenda item or items acted upon in*
39 *violation of that section.*

1 (e) During any action seeking a judicial determination pursuant
2 to subdivision (a) if the court determines, pursuant to a showing
3 by the legislative body that an action alleged to have been taken
4 in violation of Section 54953, 54954.2, 54954.3, 54954.5, 54954.6,
5 54956, or 54956.5 has been cured or corrected by a subsequent
6 action of the legislative body, the action filed pursuant to
7 subdivision (a) shall be dismissed with prejudice.
8 (f) The fact that a legislative body takes a subsequent action to
9 cure or correct an action taken pursuant to this section shall not
10 be construed or admissible as evidence of a violation of this
11 chapter.

O